

Application Serial Number 10/810,520
Reply Dated: February 5, 2007

Regarding Office Action Dated: 10/20/2006

RECEIVED
CENTRAL FAX CENTER

REMARKS/ARGUMENTS

FEB 05 2007

Claims 1-12 and 15-23 are presented for the Examiner's consideration. Pursuant to 37 C.F.R. §1.111, reconsideration of the present application in view of the foregoing amendments and the following remarks is respectfully requested.

I. Claim Amendments

Independent claims 1, 10, and 16 have been amended to recite:

... ; and a pair of spaced apart finger tabs projecting from said second longitudinal edge on said first member, said second hinge attached to a single finger tab projecting from said second longitudinal edge on said second member, said single finger tab and said second hinge positioned between said pair of spaced apart finger tabs.

Support for the amendment can be found at page 12, lines 22-34 and in Figures 10 and 11. Independent claims 10 and 16 have been amended to claim the combination of a dispenser enclosing a plurality of sheet-like articles. Claims 13-14 have been canceled for consistency with the amendments to claim 10. Finally, claim 15 has been amended to depend from claim 10 instead of claim 12. No new matter is believed to be introduced by the claim amendments.

II. U.S. 35 §102 Rejections

Claims 1, 4, 7, and 8 stand rejected under 35 U.S.C. §102(b) as anticipated by USPN 5,542,567 issued to Julius. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Broths. V. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed Cir. 1987).

Applicants have amended independent claims 1, 10, and 16 as indicated above to claim that the second hinge is attached to a single finger tab projecting from the dispenser. Julius '567 does not disclose the Applicants' invention as claimed. For at least the above reason, Julius '567 does not anticipate the pending claims.

Application Serial Number 10/810,520
Reply Dated: February 5, 2007

Regarding Office Action Dated: 10/20/2006

III. U.S. 35 §103 Rejections

Claims 2, 3, 9-12, and 21-23 stand rejected under 35 U.S.C. §103(a) as obvious over USPN 5,542,567 issued to Julius in view of USPN 4,526,291 issued to Margulies. Claims 5, 6, 15, 18, and 19 stand rejected under 35 U.S.C. §103(a) as obvious over USPN 5,542,567 issued to Julius in view of USPN 4,526,291 issued to Margulies and further in view of EP 0968934 B1 to Bando. Claim 14 stands rejected under 35 U.S.C. §103(a) as obvious over USPN 5,542,567 issued to Julius in view of USPN 4,526,291 issued to Margulies and further in view of USPN 4,096,986 issued to Florian. The Manual of Patent Examining Procedure in section 2142 entitled Legal Concept of *Prima Facie* Obviousness outlines the requirements for a proper obviousness rejection.

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

The initial burden is on the examiner to provide some suggestion of the desirability of doing what the inventor has done. "To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." *Ex parte Clapp*, 227 USPQ 972, 973 (Bd. Pat. App. & Inter. 1995).

Application Serial Number 10/810,520
Reply Dated: February 5, 2007

Regarding Office Action Dated: 10/20/2006

A *prima facie* case of obviousness does not exist since the references together or individually fail to teach or suggest attaching the second hinge to a single finger tab projecting from the second member. By attaching the second hinge to the single finger tab, the dispenser is easier to open since the second hinge and finger tab together or individually can be used to assist in opening the dispenser as best seen in Figure 10. The single finger tab 66 and the second hinge 46 both project from the dispenser's second longitudinal edge 42 providing a leverage point to assist in opening the second member 24.

With regard to claims 15, 17, 18, and 19, Applicants positively claim the combination of a dispenser enclosing a plurality of sheet-like articles. The claimed limitations are preferred embodiments for the combination having improved dispensing. They are not expressions relating apparatus to work pieces during an intended operation as stated by the Examiner, since the combination is being claimed.

IV. Conclusion

For the reasons stated above, it is respectfully submitted that all of the presently presented claims are in form for allowance. Please charge any prosecutorial fees which are due to Kimberly-Clark Worldwide, Inc. deposit account number 11-0875. The undersigned may be reached at (920) 721-7760.

Respectfully submitted,

CHRISTOPHER V. DECKER ET AL.

By: Scott A. Baum
Scott A. Baum
Registration No. 51,237
Attorney for Applicant(s)